

AMENDED IN SENATE APRIL 9, 2012

**SENATE BILL**

**No. 1391**

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**Introduced by Senator Liu**

February 24, 2012

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An act to add Sections 18927 and 18927.1 to the Welfare and Institutions Code, relating to CalFresh.

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, as amended, Liu. CalFresh benefits: overissuance.

Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Existing federal law provides for the collection of fraudulent and nonfraudulent overissuances of SNAP benefits, and authorizes the United States Secretary of Agriculture to delegate this power to the appropriate state agencies. Under existing law, a county administering CalFresh, *and operating an early fraud detection and prevention program in accordance with existing law*, is required to make a referral for fraud investigation when reasonable grounds for fraud exist, including when an overpayment or overissuance of benefits, or both, may result from an applicant's failure to report information pertinent to eligibility or benefits.

This bill would establish procedures, *consistent with federal law*, for recovering CalFresh overissuances, including requiring benefits to be reduced ~~only~~ when an overissuance is caused by intentional program violation ~~or~~, *inadvertent household error*, or fraud, or when otherwise required by federal law. This bill would authorize the State Department of Social Services to establish a minimum cost-effective threshold for

collecting CalFresh overissuances, as specified. This bill would prohibit an overissuance caused by administrative error from being established with respect to a household receiving CalFresh benefits, except as specified. The bill would prohibit collection of an overissuance from being attempted, in connection with an individual who is no longer receiving CalFresh benefits, when the overissuance is less than \$125, or a greater threshold established by the state pursuant to a specified provision, whichever is greater.

Because counties administer the CalFresh program, by requiring that counties perform new duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The Legislature finds and declares that  
2     CalFresh shall be administered fairly, so that all applicants and  
3     recipients receive the assistance to which they are entitled in a  
4     timely manner, with due consideration for the needs of the  
5     applicants and recipients.

6     (b) It is the intent of the Legislature to reduce the cost of  
7     CalFresh administration through the establishment of a  
8     cost-effective structure to address overpayments, and to protect  
9     the rights of all applicants and recipients. It is further the intent  
10    of the Legislature that nothing in this act shall overturn or  
11    otherwise eliminate any existing right or protection to which an  
12    applicant or recipient is entitled under existing state law or  
13    regulation.

14    ~~SECTION 1.~~

15    SEC. 2. Section 18927 is added to the Welfare and Institutions  
16    Code, to read:

1 ~~18927. (a) The Legislature finds and declares that CalFresh~~  
2 ~~shall be administered fairly, so that all applicants receive the~~  
3 ~~assistance to which they are entitled in a timely manner, with due~~  
4 ~~consideration for the needs of applicants.~~

5 ~~(b)~~

6 18927. (a) Current and future *CalFresh* benefits shall be  
7 reduced ~~only~~ when prior overissuances are caused by intentional  
8 program violation, *inadvertent household error*, or fraud.

9 ~~(e)~~

10 (b) Current and future benefits ~~may~~ *shall* be reduced because  
11 of prior overissuances caused by administrative error, if required  
12 by federal law, *or when the amount of the overissuance exceeds*  
13 *the threshold established in Section 18927.1.*

14 ~~(d)~~

15 (c) A household's benefits shall not be reduced to recover an  
16 overissuance as required or authorized by subdivision ~~(b) or (e)~~  
17 *(a) or (b)* unless the household receives adequate and timely notice  
18 of the overissuance, including, but not limited to, the budget  
19 worksheet that includes the amount and calculation of the  
20 overissuance and the reason for the overissuance.

21 ~~(e)~~

22 (d) In recovering an overissuance, a recipient household's  
23 monthly benefits shall not be reduced by more than 5 percent or  
24 ten dollars (\$10), whichever is less, unless the recipient elects for  
25 the benefits to be reduced at a higher rate.

26 ~~(f)~~

27 (e) If an individual is no longer receiving CalFresh benefits, no  
28 CalFresh overissuance caused by administrative error shall be  
29 established, or collection attempted, when the overissuance is less  
30 than one hundred twenty-five dollars (\$125) or the threshold  
31 established pursuant to subdivision (a) of Section 18927.1,  
32 whichever is greater. Where the overissuance collection is  
33 attempted, reasonable cost-effective methods of collection shall  
34 be implemented. The department shall define reasonable  
35 cost-effective collection methods, which shall include adequate  
36 and timely notice of the overissuance, including, but not limited  
37 to, all of the following:

38 (1) The amount and calculation of, and reason for, the  
39 overissuance.

1 (2) A statement of the monetary threshold described in this  
2 subdivision.

3 (3) Information about how to appeal the overissuance.

4 (4) Instructions for timely commencement of repayment.

5 (5) Consequences of delinquent payment.

6 ~~SEC. 2.~~

7 SEC. 3. Section 18927.1 is added to the Welfare and Institutions  
8 Code, to read:

9 18927.1. (a) The department may establish a minimum  
10 cost-effective threshold for collecting CalFresh overissuances. If  
11 the department determines that the minimum cost-effective  
12 threshold is greater than one hundred twenty-five dollars (\$125),  
13 this threshold shall be included in the state's CalFresh plan  
14 submitted annually for federal approval.

15 (b) Except when required by federal law, no CalFresh  
16 overissuance caused by administrative error shall be established  
17 or collected from a household that is receiving benefits, *if the*  
18 *overissuance is less than one hundred twenty-five dollars (\$125)*  
19 *or the amount established in this section, whichever is greater.*

20 (c) Notwithstanding the rulemaking provisions of the  
21 Administrative Procedure Act (Chapter 3.5 (commencing with  
22 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
23 Code), the department may implement this section through an  
24 all-county letter or similar instructions from the director no later  
25 than January 1, 2013.

26 ~~SEC. 3. No appropriation pursuant to Section 15200 of the~~  
27 ~~Welfare and Institutions Code shall be made for purposes of this~~  
28 ~~act.~~

29 SEC. 4. If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.